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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,433	12/28/2001	William L. Jorgenson	50135101-8	9587

7590 08/12/2005

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,433

Applicant(s)

JORGENSEN ET AL.

Examiner

James S. McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17, 19-22 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 19-22, and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on June 6, 2005, wherein:
claims 1-15, 17, 19-22, and 26-29 are pending and
claims 1 and 8 have been amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 17, 19-22, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,478,990 (Montanari et al.) in view of Systems Architecture, 2nd Edition (hereinafter "Burd") and U.S. Patent No. 6,131,087 (Luke et al.)

Regarding **claim 1**, Montanari et al. discloses a tracking method for a supply chain having at least first stage and a second stage, the method comprising: receiving first stage information (see column 3, lines 41-43; for example: raising) and second stage information (see column 3, lines 41-43; for example: fabricating), the first stage information and the second stage information input at the second stage (see column 10, lines 30-32, "a TN can be assigned at anytime"); processing the first stage information and the second stage information so that the first stage is associated with the second stage information (see column 3, lines 49-54); and

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storing the first stage information and the second stage information in a database (see column 6, lines 10-13), wherein the stored first stage information and the stored second stage information are at least accessible at the second stage (see column 8, lines 35-46); **[claim 2]** the stored first stage information and the stored second stage information are accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46); **[claim 3]** the first stage is a producer stage (see column 8, lines 20-34, “rasier”) and the second stage is a processing stage (see column 8, lines 20-34, “fabricator”); **[claim 4]** the first stage information includes at least one of producer name (see column 10, lines 20-24, “prior owners”), producer address, producer phone number and inventory information (see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 5]** the first stage information includes inventory information and the inventory information includes at least one of crop type, crop variety, crop moisture, protein and test weight(see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 6]** the second stage information includes at least one of planning data, storage data, milling data, packaging data, data indicative of yields in production (see column 6, line 30, “production history”), finished product storage data and shipping data; **[claim 7]** the first stage information is input at the second stage because the first stage is a non-participant in a transactional supply chain system and the second stage is a participant in the transactional supply chain system (see column 10, lines 30-32, “ a TN can be assigned at anytime”).

Regarding **claim 8**, Montanari et al. discloses a tracking method for a supply chain having at least a first stage (see column 3, lines 41-43; for example: raising) and a second stage (see column 3, lines 41-43; for example: fabricating), the method comprising: receiving first

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stage agricultural information and second stage agricultural information, the first stage agricultural information and the second stage agricultural information input at the second stage (see column 10, lines 30-32, “ a TN can be assigned at anytime”); processing the first stage agricultural information and the second stage agricultural information so that the first stage agricultural information is associated with the second stage agricultural information (see column 3, lines 49-54); and storing the first stage agricultural information and the second stage agricultural information in a database (see column 6, lines 10-13), wherein the stored first stage agricultural information and the stored second stage agricultural information are at least accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46), and the first stage is one of a producer stage and a processing stage (see column 8, lines 20-34, “rasier”), and the second stage is one of a processing stage, a storage stage and a manufacturing stage (see column 8, lines 20-34, “fabricator”).

Regarding **claim 9**, Montanari et al. discloses a tracking method for a non-linear supply chain, the method comprising: recording a history of a first item (for example, grains, see column 4, line 26) traversing a first path of the non-linear supply chain (see column 4, lines 53-60, wherein the byproduct are non-linear and multi-output); recording available inventory information associated with the first item at a stage along the first path (see column 11, lines 26-31); recording a history of a second item (for example, vegetables, see column 4, line 25) traversing a second path of the non-linear supply chain; recording available inventory information associated with the second item at a stage along the second path ,wherein the first path and the second path are a first output and a second output, respectively, of a multi-output stage in the non-linear supply chain, and inventory is controlled at a stage subsequent to one of

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the stage along the first path and the stage along the second path (see column 12, lines 1-5) according to one of the recorded available inventory information associated with the first item and the recorded available inventory information associated with the second item, respectively; **[claim 10]** the first path includes at least one multi-output stage (it is inherent that Montanari et al. is capable of and would be used on non-linear and multi-output chains), the first item resulting from one of a plurality of outputs of the multi-output stage along the first path; **[claim 11]** the second path includes at least one multi-output stage, the second item resulting from one of a plurality of outputs 25 of the multi-output stage along the second path; **[claim 12]** recording the history of the first item includes associating first information applying to a stage of the non-linear supply chain with the first item, the first information including at least one of quantity information , performance information (see column 6,line 30, “production history) and quality information, and associating second information applying to another stage with the first item, the second information including at least one of quantity information, performance information (see column 6,line 30, “production history)and quality information; **[claim 13]** the other stage is one of the multi-output stage and the stage along the first path; **[claim 14]** recording the history of the second item includes associating first information applying to a stage of the non-linear supply chain with the second item, the first information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information, and associating second information applying to another stage with the second item, the second information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information; **[claim 15]** recording the history of the first item includes associating information applying to a stage of the non linear supply chain with

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the first item, the information including at least one of quantity information, performance information (see column 6, line 30, “production history) and quality information and, wherein the recording of the history of the second item includes associating the information applying to the stage of the non-linear supply chain with the second item; **[claim 17]** transmitting the first information and the second information to at least one individual of a plurality of individuals within or outside the non-linear supply chain, the first information and the second information informing the at least one individual about the history of at least the first item (see column 3, lines 29-30, “third party verifiers”); **[claims 19 and 20]** the stage is one of the multi-output stage and the stage along the first path (see column 11 lines 26-31); **[claim 21]** the other stage is one of the multi-output stage and the stage along the second path (see column 12, line 1-5); and **[claim 22]** the stage is the multi-output stage.

Regarding the changes to **claims 1, 5, 8, 9, 12, 14, and 15** (2/18/05), Montanari et al. discloses tracking crop and grain information (see column 4, lines 7-30). Montanari et al. fails to expressly disclose granting access to parties of a supply chain.

Burd teaches the use of access controls and user authorization in a computer system

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Montanari et al. with restricted access as taught by Burd, because restricting access to the information protects the integrity of the data from being improperly altered or viewed.

Regarding changes (2/18/05) to **claims 1, 8, and 9**, Montanari et al. discloses receiving second stage information on a product derived from the crop (see column 5, lines 9-29), the second stage information comprising processing information inputted at the second stage and

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informing an ingredient history of the product derived from the crop (see column 5, lines 9-29).

Montanari et al. fails to disclose the use of an electronic contract negotiation in a supply chain.

Luke et al. teaches the use of electronic contract negotiation (see Figure 4) in a supply chain, wherein price, quantity, and delivery date are factors listed as needed by a user (see column 6, lines 20-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Montanari et al. with electronic contract negotiation as taught by Montanari et al., because electronically negotiating contracts is more efficient and easier to organize than using standard paper contracts.

It is noted that listing crop characteristics, such as pesticide content (as disclosed by Montanari; see column 4, lines 43-52), would be obvious to one of ordinary skill in the art because contracts often include specific product characteristics in order to protect the contract participants from receiving undesirable products.

Regarding the most recent changes (6/6/05), Montanari discloses forming an ingredient history on origins of a generally comprehensive list of ingredients (for example, see column 2, lines 44-48). Additionally, Montanari discloses tracking performance data (see column 12, lines 1-5).

Response to Arguments

4. Applicant's arguments filed June 6, 2005 have been fully considered but they are not persuasive.

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On page 8, final paragraph, Applicant argues that Luke fails to disclose retrieving “lab results” for a transaction by reference to a contract identifier reference. Luke does not provide explicit teaching of retrieving “lab results” but does disclose product information other than basic price, quantity, and delivery date (see column 6, lines 20-35). Montanari provides the teaching of organizing “lab results” as valuable data.

In response to applicant's argument on page 9, first paragraph, that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine the references is clearly set forth in paragraph 3 of this Office Action.

On page 9, second paragraph, Applicant argues the combination of Montanari, Burd, and Luke fail to disclose the newly added limitation “an ingredient on origins of an generally

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comprehensive list of ingredients in the product and grain ingredient performance data associated with the product derived from the crop.” As set forth above, Montanari discloses forming an ingredient history on origins of generally comprehensive list of ingredients (for example, see column 2, lines 44-48). Additionally, Montanari discloses tracking performance data (see column 12, lines 1-5).

On page 10, third paragraph, Applicant argues that the prior art fails to disclose the inventory management method of claim 9. On page 10, fourth paragraph, Applicant more specifically argues claim 9 focuses on the inventory management of a grain ingredient, as opposed to the number of animals in a pasture or a feedlot. Montanari discloses tracking animals and crops. Montanari merely cited an example of utilizing inventory tracking for animals when clearly the example could have made for crops.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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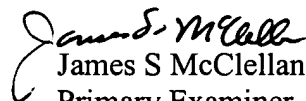
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. McClellan whose telephone number is (571) 272-6786.

The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James S McClellan
Primary Examiner
Art Unit 3627

jsm
8/8/05